POC CONNECT

UPDATES

July 2013

INSIDE THE ISSUE:

Sebi Tightens Buy Back Norms

50 per cent of the earmarked funds for a buyback have to be utilized by the corporate against existing stipulation of 25 per cent. The amount in the escrow account shall be forfeited, subject to a maximum of 2.5 per cent of the total amount earmarked in case of failure. The maximum buyback period has been reduced to six months from one year

Tata Steel may sell stake in group companies to TATA sons

Tata Steel, is looking at the option to sale its stake in various group companies, including Tata Motors due to high debt load and declining steel prices. Tata Steel owns 5.6 per cent in Tata Motors, it might sell these stakes to its parent company, Tata Sons, to raise funds for expansion and repay high cost loans.

Government approves Rs 650 Crore penalty on Bharti Airtel

Telecom Minister Kapil Sibal approved levying the penalty of Rs 650 crore penalty on Bharti Airtel for violating roaming norms in 13 service areas between 2003 and 2005 on SLD (Subscriber Local Dialing) matter.

Coal Regulator bill gets approved

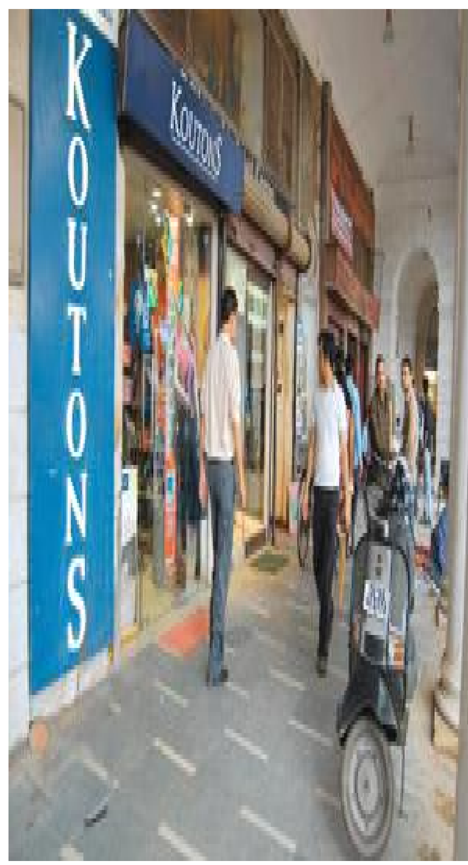
Union Cabinet has approved a proposal for a coal sector regulator . The move is aimed at infusing transparency in pricing and efficiency in mining operations of the key raw material for infrastructure industries.

Companies must give declaration before raising funds

Newly incorporated Companies and those in the process of getting registered under the Act will have now file an additional declaration, which has to be filed by the directors and initial shareholders of the companies stating that they will never raise money from public without meeting the norms of SEBI, RBI and other authorities. In the case of already registered entities, this declaration would be required whenever the company changes its objects of business.

Koutons Retail creditors file winding-up petitions in HC in a suit filed by IFCI factors limited.

Debt laden clothes seller Koutons Retail India Limited has been ordered winding up by Delhi High Court. Koutons Retail India Limited availed sales bill factoring to the tune of Rs.5 Crore from IFCI Factors Limited and cheque raised by Kuotons were dishonored on account of insufficient funds.



Companies paying over 10 crore advance tax may be asked to join LTU

Government is considering making it mandatory for companies paying advance tax of over Rs 10 crore annually to register with the LTU (Large Taxpayers Unit). The committee is also examining whether to make it mandatory for companies who are paying advance tax more than Rs 10 crore in a fiscal year or service tax more Rs 5 crore to register under LTU.

Getting a Permanent Account Number (PAN) is going to get a bit tougher

Aadhaar number, gas connection documents, and a certificate issued by the employer in a prescribed format would be accepted as identity/address proof instead of ration cards and rent receipts after changes to the income tax rules shortly. The tax department might also ask for proof of date of birth for issuing a PAN card

TDS on transfer on immovable property

New section 194IA has been inserted in the Income-tax Act, 1961 by the Finance Act, 2013, applicable from June 1, 2013. As per this, any person who is making payment as consideration to a resident transferor for transfer of immovable property other than agricultural land shall have to deduct an amount equal to 1 percent of consideration if the value of the immovable property is Rs. 50 lakh or more.

Exports from SEZs up by 31% to Rs 4.76 lakh crore in 2012

Exports from special economic zones (SEZs) grew by about 31% to Rs 4.76 lakh crore during 2012-13, compared with shipments worth Rs. 3.65 lakh crore in 2011-12.

SEBI

Enhancement in Foreign Investment limits in Government debt

CIR/IMD/FIIC/8/2013, June 12, 2013

The Government of India has enhanced the foreign Investment limits in Government Debt by USD 5 billion, only to those FIIs which are registered with SEBI under the categories of Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks.

Manner of Dealing with Audit Reports filed by Listed Companies—Clarification

CIR/CFD/DIL/9/2013, June 5, 2013

Listed companies are mandated to submit either Form A or Form B along with the Annual Report to the Stock Exchanges after getting it scrutinized by Qualified Audit Review Committee (QARC). At the time of any revision in the financial accounts ,the company is required to disclose any effect immediately to the shareholders, through Stock Exchange(s) and may be carried out in the annual accounts of the subsequent financial year as a prior period item.

RBI

NBFCs not to be Partners in Partnership Firms – Clarification.

DNBS.PD/CC.No.328/03.02.002/2012-13,11th July’2013

NBFCs were prohibited from contributing capital to any partnership firm or to be partners in partnership firms .It is clarified that a partnership firm includes the Limited Liability Partnerships and the prohibition is also applicable to the association of persons. Non-Banking Financial Companies which had already contributed to the capital in a LLP/Association of persons or was a partner of a LLP/Association of persons are advised to seek early retirement from the LLP/Association of persons

CIT vs. Silver Oak Laboratories Pvt. Ltd (Supreme Court), June 13th, 2013

TDS does not apply to contract manufacturing agreements (S. 194C)

BRIEF FACTS:

The assessee, a manufacturer of pharmaceutical products, entered into agreements with various manufacturers who manufactured the said items according to the specifications provided by the assessee. The AO held that the transaction between the assessee and the manufacturer was in the nature of a "works contract" and fell within the purview of s. 194C and that the assessee ought to have deducted TDS thereon. On appeal by the assessee, the Tribunal held that the transaction was one of sale simplicitor and was not in the nature of a work contract and that the assessee was not liable to deduct TDS u/s 194C. The department's appeal to the High Court was dismissed. On appeal by the department to the Supreme Court, HELD dismissing the SLP.

HELD:

On examining the terms and conditions, invoices, purchase orders and challans indicating payment of excise duty, there is no material on record to indicate that the transaction in question is a "contract for carrying out works". Hence, s. 194C is not attracted. Hence, s. 194C is not attracted. S. 194C has been amended by the Finance (No.2) Act, 2009, w.e.f. 1.10.2009 to provide that "*work*" includes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer.

CIT vs. Syed Ali Adil (Andhra Pradesh High Court), June 7th,2013

Deduction allowable for purchase of multiple independent house units (S. 54/54F)

BRIEF FACTS:

The assessee offered Long Term Capital Gain on sale of property and claimed deduction u/s 54 on the ground that he had purchase two adjacent residential flats. The AO held that the deduction could not be given for both flats on the ground that they were independent units, separated by a strong wall. The CIT(A) and Tribunal allowed the claim on the basis that s. 54 deduction was available for purchase of multiple flats, even if the flats were on different floors.

HELD:

Held: The High Court dismissing the appeal held that the expression “a residential house” in sec. 54 (1) has to be understood in the sense that the building should be of residential nature and “a” should not be understood to indicate a singular number. Assessee is entitled to exemption u/s 54 in respect of capital gains on sale of its property on purchase of both the flats, despite the fact that the flats were purchased by separate sale deeds. Deduction is allowable even if the flats are on different floors. **D. Ananda Basappa** 309 ITR 329 (Kar), **K. G. Rukminiamma** 331 ITR 211 (Kar) followed; **Susheela M. Jhaveri** 107 ITD 327 (Mum)

For any suggestions & Queries

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